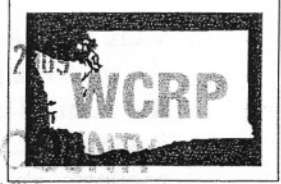


WASHINGTON COUNTIES RISK POOL

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Created by Counties for Counties



AUG 18 2009

JEFFERSON COUNTY
COMMISSIONERS
August 17, 2009

Dear Boards of County Commissioners and County Councils, Executives or Administrators:

By now you have likely been informed about several upcoming changes that resulted from the Washington Counties Risk Pool's recent Annual Meeting. This letter has two purposes... 1) to highlight the major issues addressed by the Pool's Board of Directors during that meeting, and 2) to serve as a precursor to the annual visitations by the Pool's Executive Director and Member Services Manager to each of the Member Counties:

Assessment (Premium) Increases: Overall assessments for the Pool's basic third-party liability insurance program remained constant during the past five years. But the premium increases to renew the Pool's reinsurance and the excess insurance policy, especially for losses over \$500,000, necessitate increasing member assessments for Py2010. The overall increase facing the Pool's membership is 28.7%. However, individual assessments, depending upon the Member County's level of participation (deductible selected) and its exposures and experience modification factor, are estimated to increase from just 2% to more than 90%. The degree any one County is exposed in each coverage layer, for the most part, dictates the individual assessment increases, i.e. small deductible, smaller exposure, lesser increase; large deductible, larger exposure, greater increase.

Premiums for Py2010 to renew the coverage for occurrences that exceed \$500,000 are more than doubling, an increase of \$2.78MM. Specifically, the cost for the Pool to reinsure the losses between \$0.5MM to \$10MM is increasing 124%, while the premium for the excess insurance policy is up 79%. Though unknown, these coverage layers may have been under-priced the past several years (no increases the past three years). These layers have also sustained the most severe impacts recently by settlements and verdicts/judgments. With insurance companies generating only minimal income by investments these days, their shortfalls must be made up in premium.

The increases are distributed amongst and borne by all Member Counties proportionally, but the impacts upon those with smaller-deductibles seem to be tempered because those counties participate (more) in the other layers of coverage that are experiencing minimal if any increases in costs. The premium to renew the coverage for occurrences between \$100,000 and \$500,000, for example, remains the same as the past two years. And actuarial estimates for the "pooled" layer of coverage (\$100,000 less the deductible) were projected to rise a modest 11%.

Coverage Document Changes: Two significant changes to the Joint Self-Insurance Liability Policy's ("JSILP") Coverage Form will commence October 1, 2009.

1. Public Records Act (RCW 42.56) violations will no longer be covered. Coverage under the JSILP is generally triggered by a demand for monetary damages. In the Pool's earlier years, defenses

were afforded under the JSILP to some member counties with alleged public records act violations. As time has passed, however, it became increasingly clear that responding to and complying with the Public Records Act were administrative responsibilities, not claims for damages. And court-imposed statutory penalties that resulted were assessments for failures to comply with legal requests, not monetary damages typical with alleged tortuous acts. So the Board acted to discontinue this coverage by specifying that Public Records Act penalties were not considered Monetary Damages and covered under the JSILP.

The WCRP will be conducting several certification trainings during Py2010 directed at certifying Member Counties' designated public records officers. These should result in both a better understanding of the complexities of the law and improved compliance with its provisions.

2. Implementation of an "opt out" provision. Under the terms of the Pool's founding interlocal agreement, claims/lawsuits against a Member County become the Pool's responsibilities when submitted, and "risk shared" amongst all the member counties... *All for one, and one for all!* The Pool's management, its claims handling specialists and its assigned defense attorneys are asked and expected to pursue the best overall outcome. However, the best overall outcome is not always viewed as being best for a specific named insured (Member County). And these differences have made some case management decisions quite difficult.

New language is added in the Coverage Form that will allow a Member County to 'take control' of a specific case when the Pool has chosen a course of action that the Member County is unable to accept. (NOTE: This option will not apply to cases that occurred before October 1, 2009.) Formal approval with specified releases and assurances is required from the Member County's legislative authority before the case may be withdrawn from Pool coverage and administration. When 'opting out', the Member County proceeds with case resolution on its own volition and assumes full responsibility for any future expense and outcome.

3. Coverage for any person or organization defined as an insured under Section 2(B). To address rising concerns about the proper implementation and use of "scope of work" determinations and coverage decisions under RCW 4.96.041, the applicable sections of the new Coverage Form have been amended to, in short, provide reserved coverage for past and present employees, officials and volunteers (avoiding default judgments) while the named parties submit their formal requests under RCW 4.96.041, the appropriate reviews are conducted, and the final determinations and coverage decisions are made and appropriately communicated.

Enforcement of Claim Handling Procedures: As noted in 2 above, WCRP Member Counties are required to report all third-party liability claims and lawsuits. As this happens, responsibility shifts from the County to the Pool. To better control claims costs and to assure compliance with the contractual obligations between the Pool and the insurers that underwrite its reinsurance program and those providing the "following form" excess insurance policies, Pool management will exert greater efforts to enforce the provisions of the Pool's Claims Handling Policies and Procedures (and the predecessor Claims Management Policy) approved by the WCRP Board of Directors.

Under the policy, lesser-valued cases may be handled (adjusted and settled) by a Member County 'in-house' if it so chooses. A lesser-valued case is limited to the County's deductible provided the case is

not reportable to the excess or reinsurance carriers (normally \$50,000.00). Some Member Counties 'co-manage' cases with the Pool staff utilizing their claims administration personnel and the civil attorneys and staffs in their Prosecutors' Offices. Misunderstandings or confusion still seem to remain regarding this limited authority, especially with the larger-deductible Member Counties. This may be due to the reduction from the \$250,000 reporting level during the Pool's first ten years to the present \$50,000 level. That occurred eleven years ago.

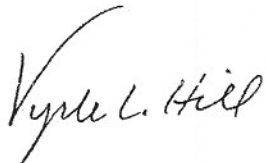
And 'in-house' case management has unfortunately not always resulted in the best interests of the Pool or the Member Counties. Tendencies, more and more frequently it seems, are to place the desired outcomes of the Member County above the Pool's basic principle of securing *the best overall result*. Furthermore, the expertise on the nuances of the law necessary to properly defend complex tort cases is not uniformly available at the county level, nor should it be. Combined, these have resulted in several lawsuits or claims that have gone awry. And that is being highlighted now by the large increases in the premiums to renew the Pool's reinsurance and the "following form" excess insurance policy forming the backbone of the JSILP.

Pool management and claims personnel will continue to confer with Member Counties' legislative authorities and Prosecuting Attorneys' offices on cases. However, primary administration and disposition of cases with demands exceeding \$50,000 will rest with the Pool's Executive Committee and Pool management.

Relationship: The relationship between the Member Counties, individually and collectively, its Board of Directors, Executive Committee and staff is a partnership. And the staff at the Pool treats this partnership with great respect. We continue to strive to provide the Member Counties and their representatives, officials and staffs with comprehensive and economical insurance coverage, while assisting with managing their risk exposures through various trainings and consultations.

We look forward to the upcoming 'in-person' visitations with you, and the opportunity these will provide to discuss the WCRP programs and plans with you in greater detail.

Respectfully,



Vyrle Hill
Executive Director

Ec: WCRP Executive Committee
David Goldsmith, Member Services Manager
Susan Looker, Claims Manager
Jill Lowe, Loss Control Coordinator
Sue Colbo, Accounting/Auditing Officer
Eric Johnson, WSAC Executive Director
Tom McBride, WAPA Executive Director